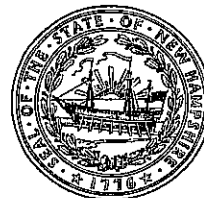




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

April 2, 2009

The Honorable Judith T. Spang, Chairman
Resources, Recreation, and Development
Room 305
Concord, NH 03301

RE: SB 65, relative to the acceptance of in lieu payments for the restoration or creation of wetlands

Dear Chairman Spang:

Thank you for the opportunity to comment on SB 65, which would expand the eligibility for projects with wetland impacts from one acre to three acres, would allow stream related impacts to provide payments in-lieu of other forms of mitigation, and would require that applicants for wetlands permits notify local river management advisory committees of projects within a river corridor. The Department of Environmental Services (DES) strongly supports this bill..

SB 65 bill implements a recommendation of the Final Report of the Comprehensive Flood Management Study Commission (New Hampshire House Bill 648, Chapter 179.1, Laws of 2007). The report specifically recommended the development of a DES in-lieu mitigation option for projects that impact floodplains and stream channels as well as wetlands. SB 65 proposes to expand the projects that are eligible for funding to include stream enhancement preservation and upland areas adjacent to riparian areas. DES also supports the proposed amendment to expand eligibility for contribution to the Aquatic Resource Mitigation (ARM) Fund as a possible form of compensatory mitigation from projects of less than one acre to projects of any size. Both United States Army Corps of Engineers and the United States Environmental Protection Agency have voiced their support for this change.

In 2006, the Legislature enacted RSA 482-A:29 and other related sections, which created the Aquatic Resource Mitigation (ARM) Fund. Through these amendments to RSA 482-A, DES was authorized to collect mitigation funds for deposit in the ARM as compensation for permitted wetlands impacts. Through this mechanism, applicants have opted to contribute statewide approximately \$1,500,000 to the ARM Fund for compensatory mitigation over the first two years of the fund's operation (see attached report). These funds must specifically be expended for restoration or other improvement projects in the watershed in which the original wetlands impacts occurred and DES tracks the funds on a watershed basis. We are now preparing our initial request for proposals (RFPs) for projects to utilize the available funds in the Merrimack River watershed and RFPs for other watersheds across the state will follow. ARM funds will ultimately support projects that will likely include wetlands restoration, improvement of substandard stream crossings to relieve flow restrictions to reduce flooding, and preservation of upland areas adjacent to wetlands and rivers with direct wildlife habitat benefits. The ARM program, once in full operation, is expected to result in significant improvements to New Hampshire's aquatic resources.

DES Web site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-2147 • Fax: (603) 271-6588 • TDD Access: Relay NH 1-800-735-2964

The Honorable Judith T. Spang
April 2, 2009
Page 2

In summary, DES fully supports SB 65. Thank you for the opportunity to comment on this legislation. If you have any questions or need additional information, please do not hesitate to call Collis Adams at 271-4054, Lori Sommer at 271-4059 or me at 271-3449.

Sincerely,

Michael Wells, ASH Comm.

for Thomas S. Burack
Commissioner

Attachment: ARM Fund 2007-2008 Annual Report

cc: Senator Janeway
Representatives Keppler and Gottling